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T.R.A. DOCKET ROOM

January 8, 2004

Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

DOCKET NO.
04-00010

Re: CAT Communications International, Inc. v. BellSouth Telecommunications, Inc.

Dear M. Secretary:

Enclosed for filing is a Complaint Pleading regarding BellSouth's charging CAT Communications International, Inc. fees that should be charged to the service user and not the service supplier.

Thank you for your attention to this matter.

Sincerely,

Debra A. Waller
Paralegal
CAT Communications International, Inc.

CC: BellSouth Telecommunications, Inc.

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CONSUMER SERVICES DIVISION
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TN REGULATORY AUTHORITY

BEFORE THE TENNESSEE REGULATORY AUTHORITY

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CAT COMMUNICATIONS
INTERNATIONAL, INC.,

Plaintiff

v.

BELLSOUTH
TELECOMMUNICATIONS INC.

Defendant

**FORMAL COMPLAINT OF
CAT COMMUNICATIONS INTERNATIONAL, INC.
AGAINST BELLSOUTH TELECOMMUNICATIONS, INC.**

CAT Communications, International Inc. ("CCI"), in its Formal Complaint and Petition against BellSouth Telecommunications, Inc. ("BellSouth") before the Tennessee Regulatory Authority ("TRA") seeks an expedited Order finding BellSouth has breached the applicable Tennessee Code, and for such relief as may be appropriate. As set forth herein, in its dealings with CCI, BellSouth has violated and continues to violate state law by unlawfully charging CCI for Emergency Telephone Service Charge and the Telecommunications Relay Services charges.

PARTIES AND JURISDICTION

1. CCI is a corporation organized under the laws of the Commonwealth of Virginia with its principal place of business located at 3435 Chip Drive, N.E., Roanoke Virginia, 24012.
2. BellSouth is a corporation organized under the laws of the state of Georgia, with its principal place of business located at 1155 Peachtree Street, N.E. Atlanta, Georgia 30309.
3. BellSouth is a telephone company, which makes it a public service company engaging in and operating a utility business in the State of Tennessee. Therefore, the Commission possesses personal jurisdiction over BellSouth, pursuant to the Tennessee Revised Statutes cited herein.
4. Correspondence on this matter should be sent to:

Stephen Athanson
General Counsel
CAT Communications International, Inc.
P.O. Box 11845
Roanoke, VA 24022-1845

FACTUAL BACKGROUND

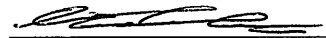
1. CCI is a Competitive Local Exchange Carrier ("CLEC") that began reselling local exchange services in Tennessee in 2000. By order dated February 15, 2000, CCI was granted a certificate of local authority to operate as a carrier of telecommunications services in Tennessee. See Docket Number 99-0925. CCI currently provides local exchange services to service users, as defined in Tennessee Code §7-86-103 (12) and (13) and is subject to the jurisdiction of the Tennessee Regulatory Authority.
2. BellSouth is an incumbent local exchange carrier ("ILEC") and exclusive provider of "last mile" telephone network equipment and transmission facilities in Tennessee. BellSouth currently provides local exchange services to service users in Tennessee and is subject to the jurisdiction of the Tennessee Regulatory Authority.
3. In order to provide local exchange service, CCI currently purchases and resells BellSouth services pursuant to a resale agreement.
4. Pursuant to Tennessee Code 7-86-110 (a), CCI is obligated to collect and remit certain surcharges from its service users. These include the emergency telephone service charge, which is imposed of service users to allow localities to recover the cost of implementing and maintaining "911" emergency services. In addition, surcharges are imposed on telephone companies to fund telecommunications relay services for the deaf or hearing-impaired

5. CCI collects these charges from its service users, and has collected these charges since it began doing business in Tennessee.
6. BellSouth imposes this charge on the lines it provides to CCI, lines which CCI resells and charges the fee to the service user.
7. Pursuant to the Tennessee Code, surcharges are imposed on the user of the service as defined in Code § 7-86-103 (13), and not on the service supplier as defined in Code §7-86-103 (12), which is the service supplier as defined in revised statute 33 §9125. Furthermore, the Code is clear that it is the duty of the service supplier, in this case, CCI, to impose these charges on their service users and remit the funds as set forth in Code §7-86-110 (a).
8. The Code also states in §7-86-110(b) that “The service supplier shall be entitled to retain as an administrative fee an amount equal to three percent (3%) of its collection of the service charge.” CCI collects this surcharge from its service users, but cannot offset its expenses by retaining three percent of the monies because BellSouth collects the monies from CCI and retains the three percent, even though CCI collected the funds. BellSouth collects this fee on all lines provided to CCI, even if the funds are never collected by CCI from the service user.
9. In addition, BellSouth’s collection of fees and surcharges for which CCI is liable leaves CCI vulnerable should BellSouth fail to properly pay these fees.

WHEREFORE, Plaintiff, CAT Communication International, Inc., respectfully requests the Commission issue an order:

- A. Directing BellSouth to cease and desist from charging or collecting "911" and other surcharges from CCI; to find CCI is lawfully entitled to collect these fees and surcharges from its service users; and
- B. Such other relief as the Commission deems just and reasonable.

Respectfully Submitted



Stephen Athanson
General Counsel
CAT Communications International, Inc.
P.O. Box 11845
Roanoke, VA 24022-1845
(540) 444-2169

Dated: 1/7/04